



DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[234A2100DD/AAKC001030/A0A501010.999900]

Proposed Finding Against Federal Acknowledgment of the Grand River Bands of Ottawa Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior (Department) gives notice that the Office of the Assistant Secretary – Indian Affairs (AS–IA) proposes to determine that the petitioner, Grand River Bands of Ottawa Indians (Petitioner #146), is not an Indian Tribe within the meaning of Federal law. This notice is based on a determination that Petitioner #146 does not meet one of the seven mandatory criteria for a government-to-government relationship with the United States. This proposed finding (PF) is based on only one criterion.

DATES: Comments on this PF are due on or before [INSERT DATE 180 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. We must receive any request for a technical assistance meeting by [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please address comments on the PF or requests for a paper copy of the report to the Department of the Interior, Office of the Assistant Secretary – Indian Affairs, Attn: Office of Federal Acknowledgment, 1849 C Street NW, MS-4071 MIB, Washington, DC 20240. Electronic copies of the PF, as well as other related documents, are available on OFA’s website (www.bia.gov/as-ia/ofa). Parties who make comments on the PF must also provide a copy of their comments to the Petitioner.

FOR FURTHER INFORMATION CONTACT: R. Lee Fleming, Director, Office of Federal Acknowledgment (OFA) at comments@bia.gov or (202) 513-7650.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 83.10(h) (1994),¹ the Department gives notice that the AS–IA proposes to determine that the Grand River Bands of Ottawa Indians (Petitioner #146), c/o Mr. Ron Yob, PO Box 2937, Grand Rapids, Michigan 49501-2937, is not an Indian Tribe within the meaning of the Federal law. This notice is based on a preliminary finding that the petitioner fails to satisfy one of the seven mandatory criteria for acknowledgement set forth in 25 CFR 83.7(a) through (g), and thus, does not meet the requirements for a government-to-government relationship with the United States. Please see the **SUPPLEMENTARY INFORMATION** section of this notice for more information about the public comment period.

Petitioner

The Department received a letter of intent from the Petitioner under the name “Grand River Band Ottawa Council” on November 16, 1994, and designated it Petitioner #146. On November 14, 1997, the Petitioner submitted a “Petitioner Update” form indicating that Petitioner #146 was now known as the “Grand River Bands of Ottawa Indians,” with Ron Yob and Joseph Genia as Co-Chairs. The Petitioner submitted materials for its documented petition in December 2000, July 2004, and November 2004. The Department conducted an initial review of these materials and provided Petitioner #146 with a technical assistance (TA) review letter on January 25, 2005. In June 2006 and March 2007, the Petitioner supplied materials in response to the TA review letter. The Department then placed Petitioner #146 on the “Ready, Waiting for Active Consideration” list on March 28, 2007.

The Department placed the Petitioner on active consideration on December 1, 2013. The Petitioner submitted no additional documents during the 60 days following, as allowed by the AS–IA’s notice of “information and guidance” of March 31, 2005 (70 FR

¹ All citations to 25 CFR part 83 in this notice are to the version of the Federal acknowledgment regulations as revised in 1994 unless otherwise indicated.

16514), and as advised by a Department letter of December 12, 2013. In a letter dated March 12, 2014, the Department exercised its option under the same guidance to ask for information the Petitioner had not submitted.

In an August 27, 2014, the Petitioner furnished 569 membership files, a considerable increase from a membership list that the Petitioner had submitted in June 2014, which indicated the group had only 347 members. Additionally, thirty-six individuals on the June 2014 membership list also did not have membership files in the August 2014 submission. To ascertain the Petitioner's membership, the Department asked for an updated membership list and an explanation of which membership files were current. The Petitioner supplied this information on October 31, 2014. Petitioner #146 provided additional material on December 13, 2016, which the Department had requested in a teleconference with the group on November 3, 2016.

Due to these submission delays and the Department's competing priorities, including the review of other pending petitions, the Department extended the deadline for the PF to September 30, 2015. In the interim, on July 1, 2015, the Department issued a final rule that revised the acknowledgment regulations effective July 31, 2015. In a letter dated August 28, 2015, the Department provided Petitioner #146 an opportunity to choose, by September 29, 2015, whether to complete the evaluation process under the revised 2015 regulations or complete its evaluation under the 1994 version of the acknowledgment regulations. By letter dated September 14, 2015, the Petitioner's governing body informed the Department that it wished to have its petition evaluated under the 1994 regulations. On November 2, 2015, the Department acknowledged receipt of this letter and also extended the deadline for issuing the PF to March 28, 2016.

From March 2016 to April 2020, the Department found good cause to provide additional extensions of the date for issuance of the PF for Petitioner #146, pursuant to 83.10(h) of the 1994 regulations. On April 16, 2020, the Department conditionally

suspended active consideration of the PF based on administrative problems caused by the COVID-19 emergency. The Department lifted the suspension on April 15, 2022, based on local public health conditions (transmission levels trending to moderate and low) and the reopening of facilities on the local, state, tribal, and Federal levels that are important for accessing information and records related to the consideration of the petition. Upon ending the conditional suspension, the Department scheduled the issuance of the PF to occur on or before October 12, 2022.

The Department held a teleconference with Petitioner #146 on June 28, 2022, per the Petitioner's request. The teleconference was held to answer Petitioner questions regarding the preparation of a current membership list, submission of new member enrollment files, and certification of the current membership list. Petitioner #146 subsequently submitted an updated current membership list and new member enrollment files, which were received by the Department on August 8, 2022. On October 4, 2022, the Department found good cause to issue a 120-day extension of the deadline for issuing the PF with an issuance date scheduled to occur on or before February 9, 2023. The Department subsequently issued a final, two-week extension, with an issuance date scheduled to occur on or before February 23, 2023.

Criterion 83.7(b) requires that "a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present." Section 83.1 defines "Community" as "any group of people which can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. Community must be understood in the context of the history, geography, culture and social organization of the group."

Petitioner #146 claims descent from the historical Ottawa bands that originally lived in the area of Michigan surrounding the Grand River. With other Ottawa and

Chippewa bands, these bands signed several treaties during the early- to mid-nineteenth century. Following the last of these treaties in 1855, the bands relocated to other parts of Michigan, with the largest groups of them moving to settlements in Oceana and Mason Counties and with smaller groups of them moving elsewhere.

While the Petitioner's members appear to descend from these historic Grand River-area bands (a claim that would be evaluated under criterion 83.7(e) in an amended PF if the deficiencies in the PF are resolved), the Petitioner has not demonstrated that its members comprise a distinct community that has existed as a community through time. In furtherance of its claim, the Petitioner submitted evidence of groups of descendants occasionally joining together for various purposes, including making claims against the Federal government, in the name of the "Grand River bands."

The Petitioner asserts that these activities support its claim of a continuously existing distinct community under criterion 83.7(b). However, the evidence relating to these periodic activities indicates otherwise. From one activity to another, the individuals purporting to act on behalf of the Grand River Bands changed significantly. Instead of reflecting the existence of a distinct community, these activities appear to have been performed by several different groups of descendants acting independently, in some cases, making different decisions on the same issues. Furthermore, the proportion of current members whose ancestors participated in any specific activity is low, relative to the total membership. In addition, those ancestors of members of Petitioner #146 who participated in the activities that the Petitioner claims demonstrate community represent only a small portion of each larger group of individuals who participated in the activities.

Instead of showing that Petitioner #146 represents a continuously existing community, the evidence shows that Petitioner #146 was formed recently by the merging of several different groups of descendants of the historic Grand River-area bands. These different groups were based in different parts of Michigan and appear to have acted

independently, each with its own separate leadership, membership, and activities. These groups came together during the mid- to late-1990s, following the congressional recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians in 1994. The leadership of the different groups expressed that seeking Federal recognition was their main purpose for coming together, and the decision to join into a single organization occurred after one of the groups independently submitted its Letter of Intent to the Department. Additionally, the decision to join into a single organization was followed by a period of active recruitment of other individual descendants of the treaty-era bands who had not previously been members of any of the component organizations or otherwise been interacting with other descendants as part of the Petitioner's claimed community.

In sum, although the claims of Petitioner #146 stem from descent from a group of historic bands, the Petitioner has not documented any activities since the treaty era that reflect a continuously existing distinct community. Rather, the evidence shows that the Petitioner came together beginning in 1995 from several independent groups. The absence of a distinct community among the Petitioner's ancestors in earlier evaluation periods is reflected in the continued lack of many characteristics of a distinct community among the current membership. Evidence since 1995 shows that there is a very small group of members, often those in leadership positions, who are active as members, but the overwhelming majority of members are not present and do not participate in Petitioner-sponsored events and activities.

The evidence submitted by Petitioner #146, and evidence Department staff obtained through its verification and evaluation research, is insufficient to demonstrate, under the reasonable likelihood of the validity of the facts standard, that Petitioner #146 meets the mandatory criterion for Federal acknowledgment, 83.7(b), either as is or as modified by 83.8.

In accordance with the regulations, the failure to meet any one of the seven criteria requires a determination that a petitioning group is not an Indian Tribe within the meaning of Federal law. *See* 25 CFR 83.6(d) and 25 CFR 83.10(m). Therefore, the Department proposes to decline to acknowledge Petitioner #146 as an Indian Tribe.

According to the AS-IA “Office of Federal Acknowledgment; Guidance and Direction Regarding Internal Procedures” of May 23, 2008:

If during the evaluation of a petition on active consideration it becomes apparent that the petitioner fails on one criterion, or more, under the reasonable likelihood of the validity of the facts standard, OFA may prepare a proposed finding or final determination not to acknowledge the group on the failed criterion or criteria alone, setting forth the evidence, reasoning, and analyses that form the basis for the proposed decision. *See* 73 FR 30148.

The burden of providing sufficient evidence under the criteria in the regulations rests with the petitioner. *See* 25 CFR 83.5(c). Because Petitioner #146 has not met criterion 83.7(b), it is not necessary for the Department to make conclusions regarding the other six mandatory criteria at this time.

The PF is based on the evidence currently in the record. Additional evidence may be submitted during the comment period that follows publication of this finding. If new evidence provided during the comment period results in a reversal of this conclusion, the AS-IA will issue an amended PF evaluating all seven criteria. *See* 73 FR 30148.

Public Comment Period

Publication of this notice of the PF in the *Federal Register* initiates a 180-day comment period during which the Petitioner and interested and informed parties may submit arguments and evidence to support or rebut the PF. Comments on the PF should be addressed to both the Petitioner and the Federal Government as required by 25 CFR 83.10(i) and as instructed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. Parties who make comments on the PF must also

provide a copy of their comments to the Petitioner, please see the Petitioner's address in the **SUPPLEMENTARY INFORMATION** section. The regulations, 25 CFR 83.10(k), provide the Petitioner a minimum of 60 days to respond to any submissions on the PF received from interested and informed parties during the comment period. After expiration of the comment and response periods described above, the Department will consult with the Petitioner and interested parties to determine an equitable timeframe for consideration of written arguments and evidence. The Department will notify the Petitioner and interested parties of the date such consideration begins. After consideration of the written arguments and evidence rebutting or supporting the PF and the Petitioner's response to the comments of interested and informed parties, the AS-IA will either issue an amended PF or make a final determination regarding the Petitioner's status. The Department will publish a summary of this determination in the *Federal Register*.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal information from public review, we cannot guarantee that we will be able to do so.

Authority

The Assistant Secretary – Indian Affairs is recused from this matter, and the Principal Deputy AS-IA is issuing this Proposed Finding pursuant to the authority delegated. *See* 209 DM 8.4(A); 110 DM 8.2.

Wizipan Garriott,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising by delegation the authority of the Assistant Secretary—Indian Affairs.

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